

# **Rivera Audit Report**

## **Canton, Georgia Police Department**

**January 12, 2012**

Louis M. Dekmar

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The findings and recommendations in this matter are rendered pursuant to a request on December 21, 2011, by Mr. Scott Wood, City Manager, Canton, Georgia to conduct a review and assessment of the Canton Police Department's response to the December 2, 2011, abduction and murder of Jorelys Rivera, a seven-year-old female, at River Ridge Apartments, Canton, Georgia. This review focuses narrowly on the law enforcement duties and responsibilities, as outlined in the Canton Police Department's "Missing Persons" policy, generally accepted police practices in these type of incidents and the agency's initial response and subsequent following-up investigation of the Jorelys Rivera case.

### **Synopsis of the Incident:**

On December 2, 2011, at approximately 7:30 p.m., Canton police responded to a report of a missing seven-year-old child, Jorelys Rivera, at an apartment complex at 9102 River Ridge. Rivera was last seen on that date at approximately 5:15 p.m., near a playground area of the complex. She was wearing boots, jeans and a long sleeve shirt.

Within an hour of arriving, Canton police responded with additional officers, and with Canton Fire Department personnel. They requested additional assistance from Cherokee County Sheriff's Office deputies and the Cherokee County Search and Rescue Team. The Canton Police Department established an Incident Commander and a Command Post at the apartment complex clubhouse and leasing office. (Hereinafter, the searchers are collectively referred to as the "search team.")

The search team suspended the search effort at 2 a.m., December 3, 2011, some four hours after commencing the operation. Canton police maintained a presence in the apartment complex until the incident command was re-established inside the apartment complex office/clubhouse, at approximately 5:30 a.m. Investigative efforts along with search and rescue activities continued throughout the day of December 3, 2011 without revealing any viable lead relating to the location of the missing child. It was later learned that the apparent homicide crime scene was searched for the Rivera child and that the significance of some evidence was not recognized at the time by Cherokee County Sheriff's Deputies and Canton Fire Department personnel. At 3 p.m., Canton police reclassified the incident from a missing child to abduction. Search efforts were concluded at 7 p.m. that day. On December 4, 2011, Canton police and Cherokee Emergency Management met. As a result, at approximately 10 a.m., on December 4, 2011 the search team established a command post in the parking lot of the Carmike Cinema. Cherokee County Search and Rescue efforts were re-activated along with the Canton Fire Department and other outside agencies. At approximately 4 p.m., the Cherokee County Sheriff spoke with the Director of the Georgia Bureau of Investigation (GBI). After receiving approval from Canton police officials, the Sheriff requested the assistance of the GBI and their Child Abduction Recovery Team (CART). At approximately 9 p.m., Canton officers again searched apartments that had previously been inspected and located what was determined to be the Rivera crime scene in a

vacant apartment at River Ridge Apartments. On December 5, 2011, the body of Jorelys Rivera was recovered in a trash compactor located on the River Ridge apartment complex property. On December 7, 2011, an employee of River Ridge Apartments was arrested and charged with the murder of Rivera. The prosecution of that suspect is pending.

**The following were considered in forming the basis of this report:**

**1. Documents:**

- o Canton Police Department Offense/Incident Report, Complaint No. 201124295, 7 pages
- o Canton Police Department Standard Operating Procedure (S.O.P.) 16-7 Missing Persons

**2. Interviews:**

- |                    |  |
|--------------------|--|
| o Donny Arp        | Canton Assistant Fire Chief  |
| o Matt Baldwin     | Canton Police Detective Sergeant                                   |
| o Jody Caldwell    | Georgia State Patrol Corporal                                      |
| o Dean Floyd       | Canton Fire Chief  |
| o Roger Garrison   | Cherokee County Sheriff  |
| o Dustin Hamby     | Georgia Bureau of Investigation Special Agent                      |
| o Jeff Hall        | Canton Emergency Management Director                               |
| o Drew Henson      | Canton Police Detective  |
| o Vernon Keenan    | Georgia Bureau of Investigation Director                           |
| o Edward Lacey     | Cherokee County Sheriff's Office Major                             |
| o Brian Lamkin     | Federal Bureau of Investigation-Atlanta<br>Special Agent-In-Charge |
| o Jeff Lance       | Canton Police Chief  |
| o Ken Logan        | Cherokee County Search and Rescue Leader                           |
| o Darrell Mitchell | Cherokee County Special Operations Chief                           |
| o Joel Parker      | Canton Police Department Corporal                                  |
| o Thomas Pinyan    | Cherokee County Sheriff's Office Lieutenant                        |
| o Chris Sims       | Cherokee County Sheriff's Office Lieutenant                        |

- o Robbie Westbrook      Cherokee County Emergency Management Director
- o Kim Williams           Georgia Bureau of Investigation  
Special Agent-in-Charge
- o Todd Vande Zande      Canton Assistant Police Chief

### 3. Publications:

- o "Investigative Checklist for First Responders," National Center for Missing and Exploited Children (NCMEC)
- o "Child Abduction Response Plan," United States Department of Justice, Federal Bureau of Investigation, 2<sup>nd</sup> Edition (2008)
- o FEMA ICS 300 Intermediate ICS for Expanding Incidents

### **Methodology:**

This review and assessment is a survey of the Canton Police Department's initial response and investigative follow-up from December 2, 2011 through December 4, 2011. This matter continues to be the subject of an active criminal prosecution; consequently, the specific investigative facts leading up to and surrounding the abduction and homicide of Jorelys Rivera were not a part of this review. This is not an exhaustive internal investigation or analysis of the agency or its personnel. The focus of this evaluation is the agency's response to the incident. It examines, in particular, whether the agency's response followed the policy in effect at the time of the incident and was in keeping with contemporary accepted police practices. The assessment consisted of a point-by-point review of all action steps required under the Canton Police Department Missing Person Policy whenever agency personnel encounter a critical missing person event. It examines each of the tasks that agency personnel completed in the Rivera case in light of that policy and in light of accepted police practices involving such incidents. Personnel familiar with the initial police, fire, emergency management, and search and rescue responses, along with those who had access to the documents necessary for this assessment provided the responses needed to complete the inquiry. The Canton Police Department, particularly Police Chief Jeff Lance and Assistant Police Chief Todd Vande Zande were professional and candid throughout this review, and provided all the information requested without delay. Likewise, all other agencies' personnel interviewed were cooperative, professional, and receptive to this review.

## **First Responder Responsibilities and Agency Response:**

According to the Canton Police Department report and information provided during interviews, the responding officer interviewed the parent and babysitter of the missing child within the first hour or so after receiving the missing child report. The responding officer advised that he used the Canton Police Department Checklist for Missing Persons and an ACIM Worksheet (A Child Is Missing) as a guide during his initial investigation. He also provided the command post a copy of the ACIM Worksheet along with maps and diagrams of the apartment complex and surrounding areas. The officer was able to confirm that the child was, in fact, missing. He verified the child's custody status, along with the circumstances of the disappearance. He determined when, where, and by whom the missing child last was seen. Individuals who last had contact with the child were interviewed.

Based on the available information, the officer made an initial determination that this was a case of a runaway or otherwise missing child case, which would be solved in the same manner as dozens of other such cases that the agency had handled in 2011. He obtained a detailed description and secured photographs of the missing child. He provided a detailed description of the child to the communications center for broadcast to other units, with periodic updates. The required notification was made through his chain of command, but neither the assistant chief nor police chief responded to the scene. He determined the need for additional personnel, including investigative and supervisory staff, resulting ultimately in a response by the Canton Emergency Management Director, Canton Fire Department, and the Canton Police Detective Division. They were later joined by Cherokee County deputies and Search and Rescue personnel. All searchers were briefed and advised that this child was missing, but had a history of running away and/or staying away from home.

According to the agency, potential witnesses were identified and separately interviewed at the scene. Those interviews and identifying information are properly recorded, with the name, address, home and business telephone numbers of each person. The responding officer determined each person's relationship to the missing child and the information the person may have had regarding the child's disappearance. He inquired when and where each person last saw the child and asked each one, "What do you think happened to the child?" He obtained the names and addresses and telephone numbers of the child's friends/associates and other relatives and friends of the family. He continued to keep other responding units apprised of all appropriate developing information. During the initial response, he obtained permission to search the apartment and checked all areas wherein he thought the missing child might have been hiding or concealed, conducting an immediate, thorough search of the child's home even though the child was reported missing from a different location.

The Police Department indicates that they initially sealed and protected the scene and the area of the child's apartment (including the child's personal articles such as hairbrush, diary, photographs, and items with the child's fingerprints/footprints/teeth

impressions) so that evidence would not be destroyed during or after the initial search and to help ensure that items which could help in the search for and/or to identification of the child were preserved. However, the scene was released later that evening without being processed.

Canton Police Department personnel indicate they initially checked to determine if any of the child's personal items were missing. They also photographed the area, evaluated the contents and appearance of the child's room. The Department extended the search to surrounding areas, including vehicles and other places of potential concealment. Its officers checked for the existence of surveillance or security cameras within the vicinity to determine whether they may have captured information about the child's disappearance. It located no such cameras. The responding officer followed-up and interviewed other family members, friends and associates of the child, and friends of the family to determine when each of them had last seen the child and what they thought might have happened to the child. The Police Department obtained information and photographs to provide for the preparation of flier/bulletin with the child's photograph and descriptive information. These later were distributed in appropriate geographic regions and to the media. An initial report was prepared reports and the initial officer made all required notifications.

The Police Department evaluated whether the circumstances of the child's disappearance met AMBER Alert criteria. It determined that circumstances did not fit the criteria. The agency did initiate "A Child Is Missing" immediate community notification protocol. However, this did not occur until December 3, 2011, at 1:24 a.m., more than six hours after the Police Department received its first report of the missing child. It delivered three similar community notifications during the next 38 hours.

The initial officer indicated that he did not identify the child's zone of safety for her age and developmental stage. Likewise, the other responding units failed to activate their patrol-vehicle-mounted video camera when approaching the scene to record vehicles, and anything else of note for later investigative review. The initial officer did not inquire if the child had access to the Internet in order to evaluate the possible internet role in the child's disappearance. He also did not ascertain whether the child had a cellular telephone or other electronic communication device. Other investigative personnel did this later. The initial officer did not complete a review of the sex-offender registry to determine if individuals designated as sexual predators lived, worked, or might otherwise be associated with area of the child's disappearance. This reportedly was later completed by Canton police detectives and Cherokee County Sheriff's Office personnel. The initial officer also failed to enter the information regarding the missing child into the National Crime Information Center's (NCIC) Missing Person File within two hours of report receipt, but did so about 23 hours after the child was last seen. The agency did not immediately treat areas of interest as potential crime scenes.

## **Supervisory Responsibilities and Agency Response:**

The on-duty supervisor, who was also the first responder in this missing child incident, determined that circumstances of the child's disappearance did not meet the protocol in place for activation of an Amber Alert. The Department did not immediately initiate "A Child Is Missing" community notification. The supervisor determined additional personnel were needed to assist in the search and investigation, and he requested the assistance previously described. The Department established a command post in the apartment complex clubhouse, an area located away from the child's residence. The Police Department determined that it was unnecessary to obtain additional resources from the Cherokee County Sheriff's Office, Georgia Bureau of Investigation, Georgia State Patrol, Federal Bureau of Investigation, Missing-Children Clearinghouse, Victim-Witness Services, and NCMEC's Project ALERT/Team Adam, in addition to the ones initially requested because the Department believed the victim was a runaway. The Police Department indicated it had the required resources, equipment, and assistance necessary to conduct an efficient investigation and search. According to the information provided by the Police Department during this audit, there was appropriate coordination and cooperation among all law-enforcement personnel involved in the investigation and search effort. The acting supervisor verified that all required notifications were made through his chain of command in compliance with all Departmental policies and procedures. According to the Police Department, a supervisor was available to make any decisions or determinations as the need for such developed during the course of this event. Information was obtained and generated for use of the media, including radio, television, and newspapers, to assist in the search throughout the duration of the case.

## **Investigating Officers and Agency Response:**

According to the Canton Police Department, detectives arrived at River Ridge Apartments between 9:30 and 10 p.m., about 2 1/2 hours after the initial report was dispatched and five hours after the child had disappeared. The detectives obtained a briefing from the first responding officer and other on-scene personnel. They verified and obtained more accurate descriptive information and other details developed during the preliminary investigation. A neighborhood canvas and search then was underway and the responding detectives assisted with that effort. The investigating detectives obtained a brief, recent history of the victim's family dynamics and an account of the facts surrounding the missing child. They found no conflicting information offered by witnesses and other individuals. The first responding officer had collected article(s) of the child's clothing for scent-tracking purposes and detectives confirmed this. The detectives reviewed and evaluated all available information daily. However no evidence was collected until Sunday, December 4, 2011. Arrangements were going to be made to secure the child's latest medical and dental records on Monday, December 5, 2011, since those offices were closed at the time the investigation was initiated. While the apartment complex's dumpsters were checked, according to Waste Management when



they were contacted by the police department Saturday, December 3, 2011, the trash compactor could not be checked until Monday.

The investigating detectives characterized their investigative plan as, "try to locate the missing child." They took a series of steps to accomplish that plan. Detectives conducted criminal-history check on all individuals in the Jorelys Rivera's household late Friday night and early Saturday morning. Detectives indicated that through the course of the weekend, the Cherokee Sheriff's Office, and its Criminal Investigation Division, the City of Canton Fire Department, the Cherokee Fire Department, the Georgia State Patrol and its helicopter, the Georgia Department of Pardons and Parole, the Pickens County Sheriff's Office, the Dawson County Sheriff's Office, and off-duty Canton Police Officers responded and assisted. Additionally, the Department activated ACIM or "A Child Is Missing" service on several occasions, and contacted the National Center for Missing and Exploited Children on Sunday. Detectives prepared and updated bulletins for local law-enforcement agencies, missing-children clearinghouse, the FBI, and other appropriate agencies from Friday, December 2, 2011 throughout the investigation. According to the agency, a telephone hotline was established Friday, December 2, 2011, shortly after the command post was activated and all leads were documented and followed up on, but not placed into a leads management system until Sunday.

The Canton Police Department reports that none of the neighborhood canvases utilized a standardized questionnaire and that there was no complete documentation on whom detectives spoke with at those residences. While the area in the child's home initially was monitored by a responding officer, it was released without first having been processed as a potential crime scene.

### **Compliance Review with Agency Policy and Accepted Police Practice:**

The review of the Rivera investigation revealed several lapses in policy compliance, omissions in accepted investigative protocol, and a tardy request for available outside agency resources. Additionally, it revealed Incident Command Management issues that were inconsistent with accepted or approved practices.

#### ***CANTON POLICE DEPARTMENT POLICY***

The Canton Police Department Standard Operating Procedure (S.O.P.) 16-7 Missing Persons is the seminal written directive governing the Department's response to incidents involving missing persons. While in most instances the initial responding officers complied with the Policy, the investigation revealed lapses in policy compliance. These are detailed below.

1. The Canton Police Missing Persons Policy 16-7, Procedures, 1. paragraph E. "Notifications" requires that "As soon as possible after receiving a critical missing person report, the police chief will be notified through the chain of command." In the

Rivera case, contrary to policy, rather than prompt notification of the police chief through the chain of command as soon as possible, chain of command notifications began one hour after the event began. The police chief was not contacted until two hours after the incident was reported. Moreover, the assistant police chief was not notified through the chain of command regarding the critical missing person's event. Rather the police chief notified him, after the chief learned of the incident. Detectives did not arrive until more than two hours after the incident was reported.

2. The Canton Police Missing Persons Policy 16-7, Procedures, 1., paragraph C. 2., and the National Child Search Assistance Act of 1990 requires that the responding officer "cause an immediate entry" of the missing child into the NCIC/GCIC missing persons file. This policy requirement was not satisfied in the Rivera case on the evening of December 2, 2011. It was not until Sunday, December 4, 2011, at approximately 4:40 p.m., about 48 hours after the child was last seen that a detective reported the incident to the National Center for Missing and Exploited Children. The NCMEC recommends the National Crime Information Center (NCIC) entry be made within 2 hours of the receipt of the first missing child report.

3. The Canton Police Missing Persons Policy 16-7, Procedures, 1., paragraph C. 3. requires the responding officer to immediately notify the "County's Department of Family and Children Services (DFACS)" and ascertain if there is any relevant information on the missing child, including whether or not there is an active case, the name of any caseworker, any previous missing incidents, any previous reported abuse cases, and any other information which might lead to locating the child. Contrary to policy, Department officers did not discharge this responsibility until December 3, at approximately 1 p.m., when a caseworker responded to assist the police department.

4. The Canton Police Missing Persons Policy 16-7, Procedures, 1. paragraph D. 4. requires the Police Department to: "Mobilize all resources available which could be of help in locating the subject. Resources to consider include: c. requesting assistance from other law enforcement agencies;..." The Canton Police Department made a modest request for assistance initially but failed to activate substantial investigative assets for almost 48 hours after the Rivera child was last seen.

#### *ACCEPTED POLICE PRACTICES*

This review also considered the agency's response to an incident involving a missing child in light of the investigative checklist published by the National Center for Missing and Exploited Children. The checklist outlines duties and responsibilities for the three primary roles of individuals responding to a missing child: first responder, supervisor, and investigating officer.

##### *The First Responder:*

There are 39 duties recommended by NCMEC for the first responder. The Canton Police Department's First Responders advised that they completed all of these

duties with the exceptions of these listed below:

- A. If circumstances warrant, consider activating patrol-vehicle mounted video cameras when approaching the scene to record vehicles, people, and anything else of note for later investigative review.
- B. Seal/protect the scene and area around the child's home to ensure that evidence is not destroyed during or after the initial search.
- C. Ensure information is entered on NCIC.

*The Supervisory Officer:*

The NCMEC lists 17 duties recommended for the supervisory officer. The Police Department's supervisory officers indicate they failed to complete the following:

- A. To request additional assistance from:
  - The State Police (GBI and GSP)
  - Missing-Children Clearinghouse
  - Victim-Witness Services
  - NCMEC's Project ALERT/Team Adam
- B. To confirm that all the required resources, equipment, and assistance necessary to conduct an efficient investigation have been requested and expedite their availability.
- C. To verify that all required notifications have been made.
- D. To ensure that the investigation complies with all agency policies and procedures.

*The Investigating Officer:*

There are 16 investigating officer responsibilities described by NCMEC. The Investigating Officer failed to complete those listed below:

- A. To initiate a neighborhood canvas using a standardized questionnaire;
- B. To develop and execute an investigative plan;
- C. To determine what additional resources and specialized services are required;
- D. To establish a lead-management system to prioritize and help ensure eacone is reviewed and followed-up;

- E. To ensure details of the case have been reported to NCMEC;
- F. contact landfill management to request they segregate garbage and dumping containers from key investigative areas in cases where it is suspected there may be imminent danger to the missing child; and,
- G. To conduct criminal-history checks on all principal suspects and participants in the investigation.

#### *INCIDENT COMMAND SYSTEM*

"The FBI Child Abduction Response Plan" recommends that incident command managers "Establish a command post well away from the crime scene and/or the missing child's residence to ensure appropriate security". The Canton Police Department's Incident Command Post was located in the leasing office and clubhouse of the apartment complex, with no provisions for security, contrary to this recommendation.

The Investigative/Intelligence function was removed from the Incident Command POST and operated separate and apart at the Canton Police Department (FEMA ICS 300 Intermediate ICS for Expanding Incidents). While there was clear unity of command maintained in relation to search operations, there was little exchange of information with those performing investigative, intelligence or case management functions with those conducting the searches, creating missed opportunities in communication and coordination.

#### **Findings:**

Time is critical in these types of incidents. The Canton Police Department's response regarding the search efforts during the first few hours of the missing child report were consistent with accepted police practices. The Department should have developed and executed a comprehensive investigative plan, seeking significant outside agency assistance, at some point, several hours after the first report of the missing child, and certainly by the time that search objectives had been reached that night and during the early hours of the following morning. This did not occur.

Ensuring resources are quickly secured and arriving at the scene of a very dynamic critical incident is of paramount importance. The notifications in this case were delayed. No command personnel responded to the scene until mid-morning the following day. Generally, the purpose of a required notification system is to ensure that there is adequate command and control at the scene of a critical incident and to provide for the rapid marshalling of resources and personnel. In this case neither the assistant police chief nor the police chief responded to the location of the reported missing child on the evening of December 2, 2011.

The initial ranking supervisor at this critical incident was a corporal who was

performing duties both as the responding officer and the acting supervisor. On the evening of December 2, 2011, the available Canton police patrol resources consisted of the acting shift supervisor and three patrol officers. According to agency personnel, the shift is considered fully staffed when it has a shift supervisor and five patrol units. Because all other police units were busy on other calls for service, the acting shift supervisor was required to respond to the Rivera missing child call. There is no indication that, once they were notified, agency leadership focused upon or assessed patrol resources when the critical incident notification was made. The acting shift supervisor was performing dual responsibilities both as the first responder to the critical missing person incident and as the acting shift supervisor; he was required to coordinate a variety of competing tasks, actions, and activities within a short period of time.

The nature of the Department's response repeatedly was characterized by Canton police personnel as: "We will search and find her, like we have done with all the others." Prior to the Rivera case the Canton Police Department had investigated 39 missing children incidents in 2011. It is apparent that the Department personnel believed that the child would be found at some point, like all the others. Additionally, early in the investigation the Department received information from the missing child's family indicating that she had previously run away. In the week prior to her disappearance, the child had an argument with her mother and threatened to run away. On at least one prior occasion the Rivera child reportedly had stayed overnight, away from home, without her mother's permission or knowledge. Unlike the instant occurrence, on those previous occasions the child's mother had not reported her runaway episodes to the police. The mother's specific concern for her daughter's welfare on this occasion, which had elevated to the level of involving police authorities, was not a factor that dominated the agency's response. Rather, Canton police personnel repeatedly commented that they thought that they were handling a "runaway and that she would turn up;" or they were "holding out hope she would turn up." This was the "mindset" and tenor that guided the Department's response to the incident. This also was the message that was conveyed in the briefings provided to outside agencies that came to assist the Canton Police Department in this matter. Regardless of the hopeful but false assumptions that the Department's personnel may have harbored, the result was a lack of a sense of urgency in their response to an incident that the Agency's Policy defines as "critical." Thus, it did not result in the police chief or assistant police chief responding to the apartment complex. They were not present to set the correct tone for the Department's response to the incident in a manner that emphasized its critical nature. It is not clear whether the police chief made appropriate inquiries to determine his agency's resource allocation or needs at the scene. It is evident, however, that the Department personnel on the scene were handling a critical incident and addressing numerous tasks that would have severely taxed most police agencies regardless of their size. Almost three hours after the seven-year-old child was reported missing, the acting shift supervisor was joined by the Canton Emergency Management Agency Director, who served as the Incident Commander for this event. Prior to the arrival of the incident commander, additional assistance was received from the Canton Fire Department supervised by the assistant

fire chief, and deputies from the Cherokee County Sheriff's Office.

The Canton Police Missing Persons Policy 16-7, Procedures, 1. paragraph D. 4. requires the agency to *"Mobilize all resources available which could be of help in locating the subject. Resources to consider include: c. requesting assistance from other law enforcement agencies;..."* At the time when the Canton Police Department requested sheriff's deputies to assist with the search, several hours after their search efforts failed to locate the child, the police department could have requested the Cherokee County "Strike Team." This resource would have provided the City of Canton Police Department with equipment, facilities and experienced personnel. This would have included: a mobile communications platform to ensure radio and technology interoperability, trained communications technicians and other support personnel, a mobile command platform with the capabilities of communicating via radio cell and satellite (including multiple work stations for command staff members). Strike Team members who could provide support to the Incident Management Team, who could operate equipment, and who could provide special technical assistance, would have accompanied this equipment. This resource also would have provided access to the County Geographical Information System and produced a wide range of mapping resources. Additionally, experienced Incident Management personnel would have been deployed to provide position specific assistance within the command structure. They have extensive training in advanced incident command for complex and expanding incidents along with real incident experience gained during operations that extended into multiple days.

In addition to the Strike Team, the Canton Police Department could have requested assistance from the Georgia Bureau of Investigation, which could have responded with a 50-person Child Abduction Response Team (CART), which consists of multi-disciplinary units that train and rapidly respond with a plan in place to missing child incidents. Another resource that was available but was not requested immediately after the Rivera child disappeared was the Federal Bureau of Investigation (FBI). The FBI has unique technical support resources that can be deployed in such cases. Surrounding law enforcement agencies, including the Georgia State Patrol, which can provide traffic and air support, also were available but were not promptly utilized. Thus, despite a policy mandating the mobilizing of these types of resources, no timely requests for these available assets were made.

On December 2, 2011, at approximately 11 p.m., Cherokee County Search and Rescue, supervised by the special operations chief, arrived at the apartment complex. They stayed until the search was suspended at approximately 2 a.m., three hours after the arrival of the Search and Rescue personnel. The police chief last was contacted by telephone at 10:15 p.m. The decision to suspend the search, despite a past practice by Search and Rescue personnel to continue such searches until all "resources are utilized" (which customarily takes several days), was made on December 3, 2011, at approximately 2 a.m. The personnel present at the time when the decision to suspend the search was made indicated that the decision was made by the Canton Police

Department. Canton police personnel advise that the determination was reached by a consensus of all the participants involved in the search. It is undisputed that the Canton Police Department was the lead agency responsible for this incident and that the decision to suspend the search less than seven hours after it started was made without consultation, direction or guidance from the police chief.

The search efforts resumed, with other volunteers and organizations participating, on December 3, 2011, at 5 a.m. The command post was re-established in the leasing office and clubhouse of the River Ridge Apartments. The police chief was briefed by telephone at 6 a.m., when he then learned the Rivera child had not been located. He did not immediately respond to the scene, but received three additional telephone updates between 8:30 and 9:45 a.m. The police chief arrived at the command post at approximately 10:15 a.m. This was about 17 hours after the Rivera child was last seen, and approximately 15 hours after the initial police response to the apartment complex. The guidance and assessment offered by the police chief while at the command post is not clear. He reportedly was observed by several personnel from different agencies commenting about the "Georgia game." Ultimately he turned the TV to a football game. Personnel present at the scene frequently characterized the Chief's level of concern as "laid back." There is no evidence that the police chief was sufficiently engaged at the time to recognize that the command post venue, located in the leasing office and clubhouse of the apartment complex, was problematic. The leasing office continued to do business while the work of the Incident Command Post was being coordinated in that area. Search missions, investigative leads, discussions related to the case were occurring while apartment complex employees and tenants were in the area. Indeed, the suspect who later was arrested and charged with the murder of Rivera was an employee of the apartment complex and had been observed in the area of the command post during its operation.

The searches in the complex included the dumpsters, but the search team could not examine the trash compactor until Monday. The Police Department apparently made no effort to secure the trash compactor or to station someone at the compactor until it could be examined. The Rivera child's body was later discovered in the trash compactor. A number of Canton police personnel interviewed had suspected the Rivera child was a runaway and they expected her to be found at a friend's house or to "turn up" in the morning. This was the Department's "mindset" from its initial response. It was shared with the assisting agencies on the evening of December 2, 2011, through the afternoon of December 3, 2011. This persistent attitude dominated the Canton Police Department's response to the incident. Even when the incident had been reclassified as abduction, the Department's disposition towards this case changed little. Rather than ramping up investigative resources, the Department, for the second time in two days, suspended search efforts. No call went out for additional investigative resources that could have brought together a substantial investigative team. The Canton Police Department did continue to maintain a presence in the apartment complex. However, the investigative efforts appeared to focus on the search for the missing child, and to finding clues to her location as opposed to developing an investigative plan that considered

other alternatives. Soon after the command post ceased operations on December 3, 2011, at 8: p.m., Canton detectives concluded their investigative efforts for the night.

There is no evidence that the police chief had been sufficiently briefed so that he could assess, or verify whether the agency had sought sufficient resources from other agencies. Discussions with state and federal authorities occurred at lower levels of the Canton Police Department, but not with the Police Chief. Suggestions or offers of assistance were made to the Department. These were relayed to the police chief and taken under advisement. However they were not accepted at the time they were made. It is possible that the manner in which the Police Chief had been briefed lead him to understand that there was nothing additional that could be offered that was not being pursued by the Canton Police Department. When investigative suggestions were made to him by outside agency members at the command post he indicated the agency already was in the process of doing what was being suggested. However, in many instances those very tasks remained undone since the Department was concentrating on search and location tasks rather than on a separate criminal investigation. The search and rescue/recover tasks should have been run concurrently with a criminal investigation, and the information gathered in each of those efforts should have been shared with the other, as appropriate. For example, different outside agency personnel suggested on Saturday and again on Sunday morning that the Rivera house be processed as a potential crime scene. The Department failed to act on that suggestion, however until Sunday evening. Numerous personnel from a variety of agencies indicated that working this incident, prior to Sunday evening, "was like walking on eggshells." They explained that they were not the lead law enforcement agency in this incident, and they had not been fully invited to participate in the investigation, other than in the search mission. Whether this feeling was consistent with the Police Chief's actual intentions is irrelevant. That perception created unnecessary hesitation and trepidation in the assisting agencies during the critical first 48 hours of this event and it inhibited the responses of a variety of outside agencies.

On December 4, 2011, at 9:30 a.m., the Canton Police Chief and other police personnel met with Cherokee County Emergency Management Agency personnel. The police department had contacted Cherokee County earlier that morning to request the meeting. Canton police sought and received several recommendations on a course of action responding to the Rivera case. These included: processing the family's apartment and car for evidence; processing the aunt's home and car for evidence; supporting Canton's Emergency Management Director's request to the police chief to re-establish incident command and to resume search operations immediately; ramping up search efforts to the fullest extent possible and as quickly as possible; sending law enforcement personnel door-to-door in the apartment complex and Cotton Mill Village; deploying a large law enforcement force such as the Cherokee Sheriff's Office Viper Team or other tactical resources; checking all dumpsters within one mile; merging the search and investigative functions under a single command; searching all possible dump sites around the area; calling in experienced and senior Cherokee Sheriff's Office investigators to assist in the investigation; and calling the GBI for any assistance that



they could provide. The Police Chief authorized the search effort and indicated he would speak to his detective commander regarding the other recommendations.

Arrangements were made to re-establish incident command and begin search efforts again. Numerous search missions were run throughout the day, but the Police Chief made the decision to bifurcate the search and the investigative functions, housing the investigative function at the police department with no liaison at the incident command post coordinating the search. This caused a series of frustrations and delays. Search missions were organized and dispatched based on information received from a variety of sources. Frequently it required several hours for the investigators to respond to the search command post on a search lead or rumor and to make determination on whether the lead should be pursued. In other cases, citizens with information relating to the case approached the incident command center but no investigative liaison was present and search personnel took the information and then attempted to locate a detective. Further, when searchers returned to the incident command post, no one representing the investigators was on hand to conduct a debriefing of the searchers.

At Approximately 12 p.m., Canton police contacted a GBI agent. During that discussion the offer and suggestion of having CART respond to assist was made to the Canton Police Department. The Department told the GBI that they would check with the Police Chief and advise whether this was deemed necessary. After a delay of three or four hours the Department again contacted the GBI agent to initiate CART, GBI advised the Department that the GBI Director had already activated CART. Apparently the CART activation occurred because at about the same time, the Cherokee County Sheriff, who was at the incident command post around 4 p.m., contacted the GBI Director who lives in Canton. The Cherokee County Sheriff requested to know what assistance was available from the GBI. The GBI Director related the Child Abduction Response Team (CART) was available for such an incident. The Cherokee County Sheriff also was advised by the GBI Director that the GBI required a request from the lead agency. The Sheriff asked the incident commander, Canton Emergency Management Agency Director, if he wanted to request a GBI response. He was advised by the incident commander to request GBI's assistance. The Cherokee County Sheriff also had communications with the FBI and pursuant to a request from Canton police personnel responded to assist. As a part of re-establishing the search effort, a decision was made to re-search all empty apartments and make to contact with all apartment complex residents. This resulted in the Canton Police Detectives locating the Rivera crime scene.

Shortly after the request for GBI assistance, extensive and considerable investigative resources began their response to River Ridge Apartments. Numerous outside agencies characterized the working relationship and partnering with the Canton Police Department and the Police Chief as a "textbook model" on how multi-agency investigations should be handled once all available assets were mobilized. The results of the combined agencies' efforts were the recovery of the Rivera Child's body, the detailed processing of the crime scene, and the identification and arrest of the suspect,

all occurring less than five days after the initial report.

## **Recommendations:**

It is in the light of these findings that these recommendations follow:

### **A. *POLICY REVISIONS***

The agency should conduct a comprehensive review of the "Missing Persons" policy and update it to include the following:

1. Reference or describe specific checklists and timelines for the completion of critical tasks related to critical missing person's investigations;
2. Reference specific resources that officers must access, with contact information, and time thresholds detailing when those resources should be activated and under what authority they are activated;
3. Designate the requirements for adopting an investigative plan and search plan, either detailing those requirements within the policy or within incorporated referenced checklists;
4. Require the initiation of the Incident Command System and require that all functions relating to the investigation and search be represented at the command post;
5. Create a checklist detailing all policy requirements, with an emphasis on response and time thresholds;

### **B. *OFFICER AND MANAGER TRAINING***

1. The agency should conduct or participate in city-wide annual training involving the Incident Command Management System.
2. The agency should ensure that its personnel, particularly its investigations unit remains current in contemporary investigative issues and receive continuing training in the proper handling of missing child/persons reports.
3. The agency should participate in multi-jurisdictional annual training involving Incident Command Management Systems.
4. The police chief should attend training sponsored by the National Center for Missing and Exploited Children (NCMEC), specifically, Missing Children Seminar for Chief Executive Officer (CEO)
5. The agency should conduct an annual review of its "Missing Persons" policy ensuring any additional resources offered or developed are included, as well as

any additional recommended changes in protocol or processes.

6. The agency should conduct annual training on its "Missing Persons" policy.

### **Conclusions:**

Early in the investigation of this incident the Canton Police Department developed the mindset that the missing seven-year-old child was probably a "runaway." It was that prevailing attitude that dictated the Department's response to the incident during the critical first 48 hours. This was contrary to the Department's policy requirements and inconsistent with accepted police practices in such cases.

There was a clear absence of leadership by the agency head predicated on the assumption that this was a routine "runaway or missing child, and she would turn up." The police chief failed to act after he was placed on notice of the incident, in a manner that galvanized the available resources and communicated a sense of urgency to his personnel and assisting outside agencies.

Despite its lack of an initial coordinated investigative plan during the first 48 hours after the initial missing child report concerning Jorelys Rivera's disappearance, several outside law enforcement agencies who later were involved in the homicide investigation suggested that the Canton Police Department's continued presence at the apartment complex hindered the disposal of Rivera's body outside of the immediate area of the complex. The Canton Police Department's continued search efforts, and willingness to initiate three different operations in two days was probably largely responsible for the suspect having left the Rivera child's remains on the apartment complex property and that eventually resulted in the recovery of the body.

There is unanimous agreement based upon supporting forensic evidence that by the time the initial missing child report was made to the Canton Police Department the victim most likely was already deceased. Thus, by that time, no police action could have been initiated or undertaken by the responding Canton Police officers to the initial missing child report and subsequent follow-up investigation that would have prevented Jorelys Rivera's death. In a situation where the death of the child is not immediate, however, the investigative actions of a police department and the coordinated response by assisting agencies can significantly impact the outcome. Thus, it is clear that if a subsequent missing child report were to be approached in the same manner as was the Rivera case, the Canton Police Department may indeed miss an opportunity to save a victim's life.

Submitted:

  
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